

CHAPTER 24

NATIONAL SECURITY STRUCTURE AND STRATEGY

REFERENCES

1. U.S. Constitution.
2. National Security Act of 1947, P.L. 80-253 (1947).
3. National Security Act Amendments of 1949, P.L. 81-216 (1949).
4. Department of Defense Reorganization Act of 1958, P.L. 85-599 (1958).
5. Goldwater-Nichols Department of Defense Reorganization Act of 1986, P.L. 99-433 (1986).
6. U.S. Code, Title 10, Chapter 2, Department of Defense.
7. U.S. Code, Title 10, Chapter 5, Joint Chiefs of Staff.
8. U.S. Code, Title 10, Chapter 6, *Combatant Commands*.
9. Executive Order 13228, Office of Homeland Security, October 8, 2001, 66 Fed. Reg. 51812 (October 10, 2001).

NATIONAL COMMAND STRUCTURE

The national command structure has evolved from a single Department of War headed by the Secretary of War in 1789 to today's complex structure involving the Department of Defense, Military Departments, and Commanders-in-Chief (CINC's), to name only the major participants. This structure is largely a result of legislation, though administration and defense policy also play a part. This chapter will present materials applicable at the highest levels of command. It is unlikely that the typical operational law judge advocate will be concerned with these matters. Nevertheless, an appreciation for the dynamics that occur at the highest levels will help the judge advocate better understand the commands which eventually affect his unit.

Combatant Commands

Combatant commands were first recognized in legislation in 1958, though commanders of joint forces with similar powers and responsibilities existed for some time past. The current legislative guidance is as follows:

With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish unified combatant commands and specified combatant commands to perform military missions. 10 U.S.C. §161(a).

"Unified command" is defined as a military command, which has broad, continuing missions and which, is composed of forces from two or more military departments. "Specified command" is defined similarly, though its forces come from a single military department.

The President carries out this responsibility in his biennial Unified Command Plan (UCP), which details the existence, responsibilities, and force structure of the various combatant commanders. The current UCP describes 10 combatant commands—5 with geographic responsibility, and 5 with functional responsibility. They are:

Geographic Combatant Commands

- U.S. Northern Command (USNORCOM, TBD). Forces in the U.S. and portions of the Atlantic Ocean. Geographic responsibility for Canada and Mexico.¹

¹ Created by the 2002 UCP. It has the primary mission for Homeland Security. This will include: overseeing the North American Aerospace Defense Command (NORAD); responding to security needs in chemical, biological, nuclear, or other attacks; and responding to natural disasters.

- U.S. European Command (USEUCOM, Stuttgart, Germany). NATO, some Middle East, most African countries, and, effective 1 October 2000, the waters off the west and west coast of Africa and the waters off Europe.
- U.S. Pacific Command (USPACOM, Camp Smith, Hawaii). Pacific Ocean, Pacific Rim countries and some along the Indian Ocean.
- U.S. Southern Command (USSOUTHCOM, Miami, FL). Central and Latin America and the Caribbean.
- U.S. Central Command (USCENTCOM, MacDill AFB, FL). Southwest Asia, some eastern African countries, and part of the Indian Ocean.

Functional Combatant Commands

- U.S. Transportation Command (USTRANSCOM, Scott AFB, IL). Global air, land, and sea transportation.
- U.S. Special Operations Command (USSOCCOM, MacDill AFB, FL). Trained and equipped special operations forces.
- U.S. Space Command (USSPACECOM, Peterson AFB, CO). Air, missile and space defense.
- U.S. Strategic Command (USSTRATCOM, Offutt AFB, NE). Deters military attack on the U.S. and allies.
- U.S. Joint Forces Command (USJFCOM, Norfolk, VA). Joint training, exercises and doctrine.²

There are currently no specified commands.

In an operation, combatant commands are often described as “supported” or “supporting.” The “supported” command is typically the geographic combatant command in whose area of responsibility the operation is to occur. The supported command receives the support of all supporting commands. The functional combatant commands, and occasionally other geographic combatant commands (especially USNORCOM, as the primary provider of U.S.-based forces to other combatant commanders), are designated as “supporting” commands based on the supported command’s needs, mission, and other factors.

Military Chain of Command

Unless otherwise directed by the President, the chain of command to a unified or specified combatant command runs—(1) from the President to the Secretary of Defense; and (2) from the Secretary of Defense to the commander of the combatant command. 10 U.S.C. § 162(b).

In discharging his Constitutional duties as Commander-in-Chief, the President receives advice and assistance from a number of sources. The National Security Council, created by the 1947 National Security Act and codified at 50 U.S.C. § 40, advises the President on national security and foreign affairs. It consists of the President, Vice-President, Secretary of Defense, and Secretary of State. The Chairman of the Joint Chiefs of Staff and the Director of Central Intelligence are statutory advisors. Other Cabinet and Cabinet-level officials are often invited to attend. The Assistant to the President for National Security Affairs, often known as the National Security Advisor, provides independent advice to the President. The Chairman of the Joint Chiefs of Staff is the principal military advisor to the President and Secretary of Defense, while the other members of the Joint Chiefs of Staff are military advisors (10 U.S.C. § 151(b)).

The President and the Secretary of Defense were formerly known as the “National Command Authorities” or NCA.

Note the officials who are not in the chain of command. Service Secretaries and Service Chiefs do not have an operational role, and are therefore not in the chain of command. The Chairman of the Joint Chiefs of Staff also is not in

² The 2002 UCP changed JFCOM from a geographic CINC to a functional CINC.

the chain of command, but communications between the NCA and combatant commanders are transmitted through him. 10 U.S.C. § 163(a).

Assignment of Forces

“ . . . The Secretaries of the military departments shall assign all forces under their jurisdiction to unified or specified commands or to the United States element of the North American Aerospace Defense Command to perform missions assigned to those commands. Such assignments shall be made as directed by the Secretary of Defense, including direction as to the command to which forces are to be assigned.” 10 U.S.C. §162(a).

A later provision of that statute permits the Military Secretaries to retain those forces necessary to carry out those functions assigned the military departments. The Secretary of Defense assigns forces in his annual “Forces For” memorandum. This classified document assigns all “operational” forces among the CINC’s. Those not assigned remain under the control of the military departments. Forces that are assigned to one CINC may only be transferred to another CINC by authority of the Secretary of Defense. Deployment orders (issued by the Chairman at the direction of the Secretary of Defense) are the vehicle used to transfer forces outside of the “Forces For” process.

As a practical matter, most U.S.-based forces are assigned to USJFCOM. Other geographic CINC’s are only assigned those forces, which are physically stationed in their area of responsibility. To assist those other CINC’s in planning, training, and executing operations, the Chairman promulgates an annual classified document called the Joint Strategic Capabilities Plan. Among other things, this document “apportions,” or promises the assignment of certain forces to the other geographic CINC’s if the operational need arises. Certain critical units, because of their unique capabilities, may be “dual-apportioned” between several CINC’s

Powers of CINC’s

In an attempt to align the authority of combatant commanders with their responsibilities, Congress granted great power to the CINC’s. A combatant commander exercises “Combatant Command,” or “COCOM,” defined as:

Nontransferable command exercised only by commanders of unified or specified combatant commands unless otherwise directed by the President or the Secretary of Defense. Combatant command (command authority) cannot be delegated and is the authority of a combatant commander to perform those functions of command over assigned forces involving organizing and employing commands and forces, assigning tasks, designating objectives, and giving authoritative direction over all aspects of military operations, joint training, and logistics necessary to accomplish the missions assigned to the command. Combatant command (command authority) provides full authority to organize and employ commands and forces as the combatant commander considers necessary to accomplish assigned missions. Operational control is inherent in combatant command (command authority). See Joint Pub 0-2, *Unified Action Armed Forces*.

10 U.S.C. §164 enumerates specific powers that a combatant commander shall have, to include:

- Giving authoritative direction to subordinate commands, including authoritative direction over all aspects of military operations, joint training, and logistics
- Prescribing the chain of command
- Organizing the command and forces as he considers necessary
- Employing forces as he considers necessary
- Assigning command functions to subordinate commanders
- Coordinating administration and support

- Selecting subordinate commanders, selecting combatant command staff, suspending subordinates, and convening courts-martial.

The Services

The military departments (Department of the Army [DA], Department of the Navy [DON], and Department of the Air Force [DAF]) are organized separately under civilian secretaries who are responsible for and have authority to conduct the affairs committed to their departments. The service secretaries and their uniformed chiefs of staff are not in the operational chain of command. These departments are responsible for ensuring that combatant commanders have the forces and material necessary to fulfill their warfighting missions. The military departments may retain forces for their inherent service functions of recruiting, organizing, supplying, equipping, training, mobilizing, administering, and supporting the military forces.

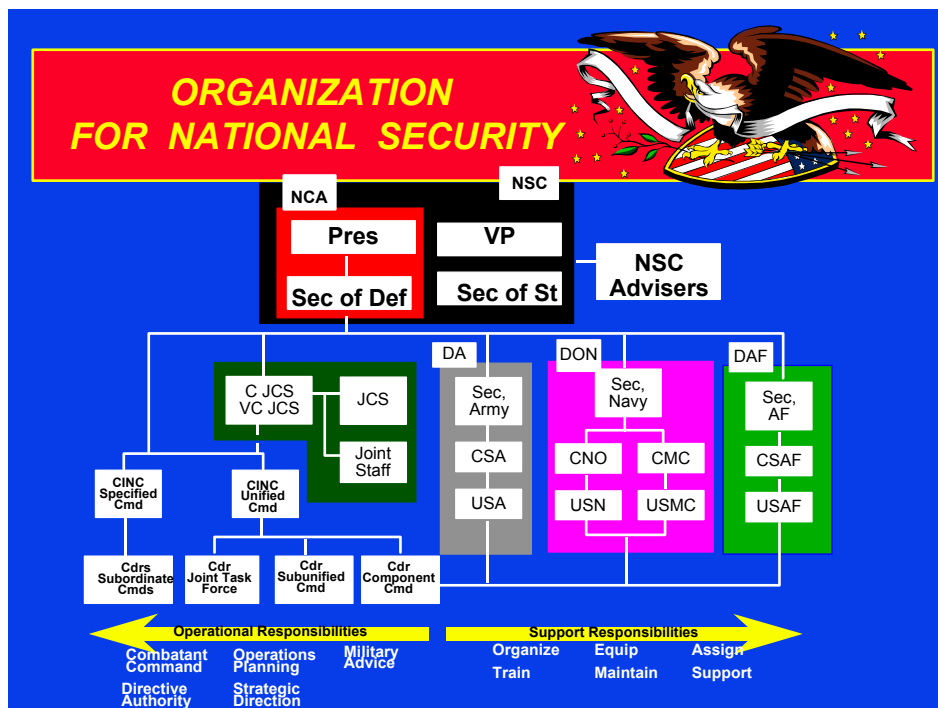


Figure 1. Organization for National Security.

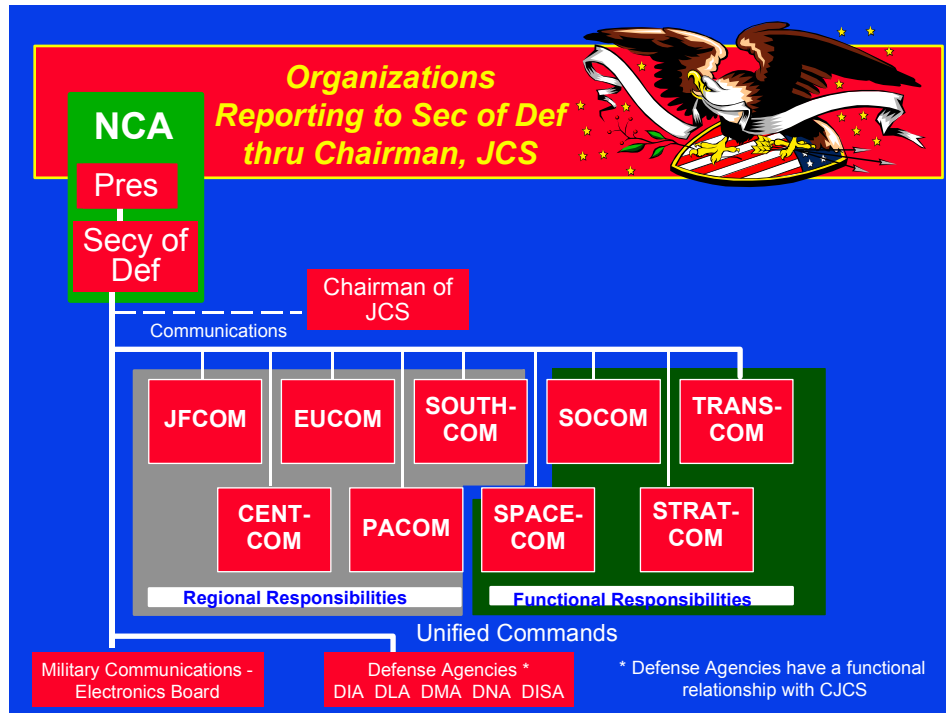


Figure 2. Organizations Reporting to the Secretary of Defense.³

NATIONAL SECURITY STRATEGY

In accordance with section 603 of the Goldwater-Nichols Reorganization Act of 1986, codified at 50 U.S.C. § 404a, the President is required to transmit to Congress each year a “comprehensive report on the national security strategy of the United States.” President Clinton last prepared and released such a report in December 2000 entitled “A National Security Strategy for a Global Age”.

The overall goal of a national security strategy is to promote U.S. national interests. The national strategy, recognizing that there are many demands for U.S. action, defines three areas in which action is more likely. **Vital interests** are those affecting the survival, safety, and vitality of the country. **Important national interests** are those, which may not affect those interests, described as vital, but do affect our national well-being and the character of the world. Examples given include the U.S. response in Haiti and Bosnia. **Humanitarian and other interests** are those which require action because our values demand it, such as responses to emergencies and disasters, human rights violations, and supporting democratization.

The strategy is based on three core objectives: enhancing national security; bolstering America’s economic prosperity; and promoting democracy abroad. Within each of these areas the document discusses the challenges and problems to be faced, as well as the means by which the U.S. will respond. Military forces figure prominently throughout the discussion.

To complement the National Security Strategy, the Chairman of the Joint Chiefs of Staff publishes a National Military Strategy. The latest edition (1997) is entitled “Shape, Respond, Prepare Now—A Military Strategy for a New Era,” (available at <http://www.dtic.mil/jcs>). The overall objective of the military strategy is “[t]o defend and protect U.S. national interests, our national military objectives are to Promote Peace and Stability and, when necessary, to Defeat Adversaries.” The elements of the strategy include: (1) Shaping the International Environment—through deterrence, peacetime engagement, and active participation and leadership in alliances; (2) Responding to the Full Spectrum of

³ This chart does not reflect the 2002 UCP changes, which created a 5th geographic CINC – USNORCOM, and converted USJFCOM from a geographic to a functional CINC. The total number of combatant commands is now ten.

Crisis—from humanitarian assistance to fighting and winning major theater wars; and (3) Preparing Now for an Uncertain Future—exploiting the Revolution in Military Affairs.

HOMELAND SECURITY

On October 8, 2001, President Bush signed Executive Order 13228 establishing the Office of Homeland Security and the Homeland Security Council. The tragic events of the September 11 World Trade Center Towers and Pentagon attacks demonstrated the need for the United States to have a coordinated and comprehensive national strategy to protect against terrorist threats or attacks. The mission of the Office shall be to develop and coordinate a comprehensive national strategy to strengthen the current protections against terrorist threats and attacks in the United States. The Office will coordinate federal, state, and local counter-terrorism efforts.

The President appointed former Governor of Pennsylvania, Tom Ridge to head The Office of Homeland Security. Governor Ridge will report directly to the President and has been given authority to effectively coordinate all federal government terrorist prevention and protection activities within the United States. Functions of the Office shall be to coordinate the executive branch's efforts with State and local governments on, among other things:

1. National Strategy
2. Detection
3. Preparedness
4. Prevention
5. Protection
6. Response and recovery
7. Incident Management

The Homeland Security Council is responsible for advising and assisting the President with respect to all aspects of security. The Council will include:

1. The President and the Vice President
2. Secretary of the Treasury
3. Secretary of the Defense
4. Attorney General
5. Secretary of Health and Human Services
6. Secretary of Transportation
7. Director of the Federal Emergency Management Agency
8. Director of the Federal Bureau of Investigation
9. Director of Central Intelligence
10. Assistant to the President for Homeland Security
11. Other Cabinet members and federal officials the President may designate

Soon after the Sept. 11th attacks, the Joint Staff published a working definition of Homeland Security. Those definitions were slightly revised on 24 March 2002. Thus, the current JCS-approved definitions are:⁴

Homeland Security: The preparation for, prevention of, deterrence of, defense against, and response to aggression targeted at U.S. territory, sovereignty, domestic population, and infrastructure; as well as crisis management, consequence management, and other domestic civil support.

Homeland Defense: The protection of U.S. territory, domestic population, and critical infrastructure against external threats and aggression.

Civil Support: Department of Defense support to U.S. civil authorities for natural and manmade domestic emergencies, civil disturbances, and authorized law enforcement activities.

⁴ As of 9 April 2002, these definitions have not appeared in Joint Pub. 1-02, DoD Dictionary of Military and Associated Terms (last updated 23 Jan 2002).

DoD Structure for Homeland Security.

Section 1511 of the FY 2002 DoD Authorization Act (P.L. 107-107), directed that the Secretary of Defense “shall conduct a study on the appropriate role of the Department of Defense with respect to homeland security. The study shall identify and describe the policies, plans, and procedures of the Department of Defense for combating terrorism, including the provision of support for the consequence management activities of other federal, state, and local agencies.” The statute sets forth specific study tasks, which include:

1. Strategy, roles and responsibilities of DoD for combating terrorism;
2. How DoD will interact with the Office of Homeland Security;
3. How intelligence-sharing efforts of DoD will be organized relative to other federal agencies and departments and state and local governments;
4. Protection of the US from airborne threats (both external and from within US borders); and
5. Recommended improvements and actions to address and overcome existing vulnerabilities (to include any draft legislation required).

Prior to the specific taskings contained in the FY2002 Authorization Act, the Secretary of Defense began creating structure within DoD to address Homeland Security. On 2 October 2001, the Secretary of the Army was designated as the Interim DoD Executive Agent for Homeland Security. In this capacity the SecArmy created an OSD Office of Homeland Security, and appointed a Special Assistant for Homeland Security, to head it.⁵ This office has primary responsibility for coordination with the President’s Office of Homeland Security. The Joint Staff J-5 also created a Homeland Security Division. Finally, pursuant to the 2002 Unified Command Plan, effective 1 October 2002, a new combatant command, U.S. Northern Command, will have primary responsibility for Homeland Security.

See Chapter 18, Combating Terrorism, for an in-depth discussion concerning DoD’s role in combating terrorism

⁵ Secretary of Defense Rumsfeld has requested authority from Congress to create an Under-secretary level position for Homeland Security.

